

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:24-cv-20591-KMM

ALBERTO ARMANDO MARTINEZ,

Petitioner,

v.

U.S. CITIZENSHIP AND IMMIGRATION
SERVICES, *et al.*,

Respondents.

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ORDER ON REPORT AND RECOMMENDATION

THIS CAUSE came before the Court upon the Parties' Joint Motion for Entry of Order. ("Mot.") (ECF No. 7). This case was referred to the Honorable Marty Fulgueira Elfenbein, United States Magistrate Judge, to take all necessary and proper action as required by law regarding all pre-trial, non-dispositive matters and for a Report and Recommendation on any dispositive matters. (ECF No. 8). On April 19, 2024, Magistrate Judge Elfenbein issued a Report and Recommendation, ("R&R") (ECF No. 9), recommending that the Motion be GRANTED. No objections to the R&R were filed, and the time to do so has passed. The matter is now ripe for review. As set forth below, the Court ADOPTS the R&R.

The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The Court "must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3). A *de novo* review is therefore required if a party files "a proper, specific objection" to a factual finding contained in the report. *Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006). "It is critical that the objection be sufficiently

specific and not a general objection to the report.” *Id.* Yet when the objecting party has not properly objected to the magistrate judge’s findings, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Keaton v. United States*, No. 14-21230-CIV, 2015 WL 12780912, at *1 (S.D. Fla. May 4, 2015) (citation omitted); *see also Lopez v. Berryhill*, No. 1:17-CV-24263-UU, 2019 WL 2254704, at *2 (S.D. Fla. Feb. 26, 2019) (stating that a district judge “evaluate[s] portions of the R & R not objected to under a clearly erroneous standard of review” (quoting *Davis v. Apfel*, 93 F. Supp. 2d 1313, 1317 (M.D. Fla. 2000))).

In the instant Motion, the Parties request that the Court enter an Order granting Petitioner Alberto Armando Martinez’s Verified Petition to Amend and/or Correct Certificate of Naturalization Issued Prior to the Enactment of Immigration and Naturalization Act of 1990 (ECF No. 1), entering judgment in favor of Petitioner, and ordering USCIS to issue an amended certificate of naturalization correcting his date of birth. *See generally* Mot. As set forth in the R&R, Magistrate Judge Elfenbein finds that (1) the Court has subject-matter jurisdiction to decide the Petition, (2) Petitioner has demonstrated that the date of birth on his certificate of naturalization is incorrect, and (3) a good-faith error caused this inaccuracy. *See* R&R at 3–4. In light of these findings, Magistrate Judge Elfenbein concludes that the issuance of an amended certificate of naturalization is warranted. *Id.* at 4. This Court agrees.

Accordingly, UPON CONSIDERATION of the Motion, the R&R, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that the R&R (ECF No. 9) is ADOPTED. The Parties’ Joint Motion for Entry of Order (ECF No. 7) and Petitioner’s Verified Petition to Amend and/or Correct Certificate of Naturalization Issued Prior to the Enactment of Immigration and Naturalization Act of 1990 (ECF

No. 1) are GRANTED. Judgment is hereby ENTERED in favor of Petitioner Alberto Armando Martinez. The United States Citizenship and Immigration Services is ORDERED to issue Petitioner an amended certificate of naturalization correcting his date of birth to February 2, 1954. The Clerk of Court is INSTRUCTED to update its naturalization record with the Court's Order and the corrected date of birth. Each party shall bear its own fees and costs. The Clerk of Court is INSTRUCTED to CLOSE this case. All pending motions, if any, are DENIED AS MOOT.

DONE AND ORDERED in Chambers at Miami, Florida, this 6th day of May, 2024.



K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

c: All counsel of record